

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: William Rasenberger	Team: Squad #7	CCRB Case #: 201901320	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Thursday, 02/07/2019 7:22 PM, Friday, 02/08/2019	Location of Incident: inside of § 87(2)(b)	Precinct: 75	18 Mo. SOL 8/7/2020	EO SOL 3/24/2021	
Date/Time CV Reported Tue, 02/12/2019 3:48 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 02/12/2019 3:48 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. An officer			075 PCT
2. SDS Damon Martin	04173	920558	INT CIS

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Manny Sharma	31876	955473	075 PCT
2. POF Mary Mapelli	05599	956878	SVD Z3
3. POM Nazir Abdul	25172	941303	075 PCT
4. SGT James Priore	04761	955346	079 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SDS Damon Martin	Abuse: On February 7th, 2019, Sgt. Damon Martin threatened to arrest § 87(2)(b) inside of § 87(2)(b) in Brooklyn.	§ 87(2)(g)
B.SDS Damon Martin	Abuse: On February 7th, 2019, Sgt. Damon Martin entered § 87(2)(b), in Brooklyn.	§ 87(2)(g)
C.SDS Damon Martin	Force: On February 7th, 2019, Sgt. Damon Martin used physical force against § 87(2)(b) inside of § 87(2)(b) in Brooklyn.	§ 87(2)(g)
D.SDS Damon Martin	Force: On February 7th, 2019, Sgt. Damon Martin used physical force against § 87(2)(b) inside of § 87(2)(b) in Brooklyn.	§ 87(2)(g)
E. An officer	Abuse: On February 8th, 2019, an officer disseminated information regarding § 87(2)(b)'s medical status at the 75th Precinct Stationhouse.	§ 87(2)(g)

Case Summary

On February 12th, 2019, § 87(2)(b) filed the following complaint via the CCRB intake line [BR 01].

On February 7th, 2019, Police Officer James Priore, Police Officer Manny Sharma, Police Officer Nazir Abdul, and Sergeant Damon Martin, all of the 75th Precinct, responded to § 87(2)(b)'s apartment, at § 87(2)(b) in Brooklyn. The officers attempted to gain entry into § 87(2)(b)'s apartment on behalf of § 87(2)(b)'s daughter, § 87(2)(b) § 87(2)(b) § 87(2)(b) who wanted to retrieve some belongings from § 87(2)(b)'s apartment. § 87(2)(b) told the officers that neither the officers nor her daughter, § 87(2)(b) could enter the apartment without a court order. Sgt. Martin told § 87(2)(b) that if she did not allow her daughter inside of the apartment, someone might get arrested for unlawful eviction (**Allegation A: Threat of Arrest**, § 87(2)(g) Roughly fourteen minutes into the interaction between § 87(2)(b) and the officers, § 87(2)(b) entered her apartment, and told the officers that she would be inside for “a minute.” Sgt. Martin followed § 87(2)(b) into her apartment (**Allegation B: Abuse of Authority – Home Entry**, § 87(2)(g) and allegedly pushed § 87(2)(b) further into her apartment (**Allegation C: Physical Force**, § 87(2)(g) § 87(2)(b) and her fiancé, § 87(2)(b) were both arrested inside of § 87(2)(b)'s apartment. At some point after § 87(2)(b) Martin was handcuffed, Sgt. Martin allegedly yanked § 87(2)(b) handcuffs upward, toward her back, three consecutive times (**Allegation D: Physical Force**, § 87(2)(g) § 87(2)(b)).

Nine body-worn camera (BWC) videos that recorded this incident were provided to the CCRB by the NYPD Legal Department.

On February 8th, 2019, while still in NYPD custody, § 87(2)(b) was transported from the 75th Precinct stationhouse to the § 87(2)(b), where she sought treatment for high blood pressure. When § 87(2)(b) returned from the hospital to the 75th Precinct stationhouse, an officer allegedly viewed § 87(2)(b)'s medical records, and, in the presence of other officers, remarked upon the treatment that § 87(2)(b) received at § 87(2)(b) (**Allegation E: Abuse of Authority – Improper Dissemination of Medical Information**, § 87(2)(b)).

Allegation A – Abuse of Authority: On February 7th, 2019, Sergeant Damon Martin threatened to arrest § 87(2)(b) inside of § 87(2)(b) in Brooklyn

Allegation B- Abuse of Authority: On February 7th, 2019, Sergeant Damon Martin entered § 87(2)(b), in Brooklyn.

Allegation C – Force: On February 7th, 2019, Sergeant Damon Martin used physical force against § 87(2)(b) inside of § 87(2)(b) in Brooklyn.

Allegation D – Force: On February 7th, 2019, Sergeant Damon Martin used physical force against § 87(2)(b) inside of § 87(2)(b) in Brooklyn.

On January 24th, 2020, § 87(2)(b) provided the following statement at the CCRB [BR 02]. In October of 2018, § 87(2)(b)'s daughter, § 87(2)(b) § 87(2)(b)

§ 87(2)(b) left § 87(2)(b)'s apartment of her own volition, and took all of her belongings. On February 5th, 2019, § 87(2)(b) returned to § 87(2)(b)'s apartment without permission. § 87(2)(b) called the police to report that her daughter was trespassing, and told her daughter to leave the apartment. When her daughter refused to leave, § 87(2)(b) grabbed ahold of § 87(2)(b)'s shoulder, and pushed her out of the apartment. Police officers responded shortly after, and § 87(2)(b) told officers that she'd been assaulted by § 87(2)(b) and § 87(2)(b). § 87(2)(b) told an officer that she did not want § 87(2)(b) to be arrested for trespassing, and the officers left shortly after, without having taken any law enforcement action.

Two days later, on February 7th, 2019, officers responded to § 87(2)(b)'s apartment, and asked § 87(2)(b) if § 87(2)(b) could enter the apartment and obtain some belongings she had ostensibly left there. § 87(2)(b) stood outside of her apartment, and told officers that they could not enter. Sergeant Damon Martin told § 87(2)(b) that § 87(2)(b) had paperwork showing that she still paid rent for § 87(2)(b)'s apartment. Sgt. Martin then asked § 87(2)(b) if he could escort § 87(2)(b) into the apartment. § 87(2)(b) told Sgt. Martin that neither the officers nor § 87(2)(b) could enter the apartment without a court order. Sgt. Martin told § 87(2)(b) that if she did not let § 87(2)(b) into the apartment, someone would be arrested. Sgt. Martin also told § 87(2)(b) that he wanted to speak to § 87(2)(b)'s fiancé, § 87(2)(b).

§ 87(2)(b) said that the officers could not speak to § 87(2)(b) and, shortly after, said that she needed to go check on her dinner. She opened the door to her apartment. As she crossed the threshold, Sgt. Martin grabbed § 87(2)(b) by her forearm and stated that § 87(2)(b) was under arrest for illegal eviction. Then Sgt. Martin pushed § 87(2)(b) further into her apartment. All of the officers followed Sgt. Martin inside, and one of the officers handcuffed § 87(2)(b). An officer also arrested § 87(2)(b) who'd been standing inside of § 87(2)(b)'s apartment, by the apartment door.

Soon after, Sgt. Martin questioned § 87(2)(b) in her bedroom about weapons in the apartment. At some point, Sgt. Martin, who was holding § 87(2)(b)'s handcuffs, jerked the handcuffs upward, toward § 87(2)(b)'s back, two or three times consecutively, and stated "I'm asking you these questions and you're not answering me."

§ 87(2)(b) was interviewed at the CCRB on January 24th, 2020 [BR 03]. The statement he provided is consistent with and comprehended by that of § 87(2)(b)'s.

When § 87(2)(b) came to § 87(2)(b)'s apartment on February 5th, 2019, § 87(2)(b) searched throughout the apartment, and opened up a dresser in one of the bedrooms. § 87(2)(b) closed the dresser drawer, but did not cause any

harm to § 87(2)(b) § 87(2)(b) called her boyfriend, prompting § 87(2)(b) to arm himself with a golf club in case § 87(2)(b)'s boyfriend came to the apartment; he never used the golf club.

On February 7th, 2019, officers “bum rushed” into the apartment, after speaking with § 87(2)(b) outside of the apartment for about fifteen minutes. In the course of the “bum rush,” Sgt. Martin pushed § 87(2)(b) into the apartment. § 87(2)(b) corroborated § 87(2)(b)'s allegation that Sgt. Martin jerked § 87(2)(b)'s handcuffs upward as he questioned her.

Criminal Complaint # § 87(2)(b) [BR 04] states that on February 5th, 2019, at § 87(2)(b), § 87(2)(b) slammed a dresser drawer on § 87(2)(b)'s fingers and wielded a golf-club, causing § 87(2)(b) to fear for her safety. Later, § 87(2)(b) and § 87(2)(b) both punched § 87(2)(b) in her head, and physically threw § 87(2)(b) out of the apartment, before telling § 87(2)(b) not to return.

Domestic Incident Report # § 87(2)(b) [BR 05], prepared on behalf of § 87(2)(b) contains the following narrative. In January of 2019, § 87(2)(b) left § 87(2)(b), where she had lived for eight years, in order to deescalate a dispute in which she was engaged with § 87(2)(b). On February 5th, 2019, § 87(2)(b) returned to § 87(2)(b) and began retrieving her belongings. A man inside of the apartment, whom § 87(2)(b) believed to be § 87(2)(b)'s friend, slammed a dresser drawer on § 87(2)(b)'s hand. Later, § 87(2)(b) arrived at the apartment, and attacked § 87(2)(b). The man also punched § 87(2)(b) and menaced her with a golf club. During the altercation, § 87(2)(b) noticed a black firearm on a bed. § 87(2)(b) and the man eventually physically threw § 87(2)(b) out of the apartment. The offense is listed as assault in the third degree & related offenses.

§ 87(2)(b)'s arrest report from February 7, 2019 [BR 16] lists § 87(2)(b)'s charges as follows: § 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) The arrest report includes the following narrative. § 87(2)(b) punched § 87(2)(b) in her head. § 87(2)(b) then forcefully removed § 87(2)(b) from her apartment. § 87(2)(b) was found to be in possession of a small quantity of marijuana, an imitation pistol, and an electronic stun gun.

Footage from PO Priore's body-worn camera [BR 07] captures the entirety of the incident. At 10:08, § 87(2)(b) is standing in the hallway outside of the door to her

apartment; the door is closed. Sgt. Martin states “depending on what happens right now, there might be an arrest made; we’re going to be talking about an unlawful eviction.” At 14:06, when § 87(2)(b) is out of earshot, Sgt. Martin asks another officer about the charges listed on the UF-61, and then states “we might have to do an arrest on her.” At 14:41, § 87(2)(b) starts walking toward her apartment door and states “I’m going back in the house for a minute.” She opens the door to her apartment, and crosses the threshold. Sgt. Martin is heard stating “Sandy, Sandy, wait.” § 87(2)(b) responds “for a minute. I got my food cooking.” Sgt. Martin approaches the doorway to § 87(2)(b)’s apartment.

PO Sharma’s body-worn camera [BR 08] shows that at 14:45 minutes, Sgt. Martin is standing in the open doorway to § 87(2)(b)’s apartment. § 87(2)(b) who is fully inside of her apartment, states “I did not say you could come in.” Sgt. Martin states “I’m going to arrest you.” At 14:56 minutes, Sgt. Martin fully enters § 87(2)(b)’s apartment -- without using any physical force against § 87(2)(b) -- wherein he handcuffs § 87(2)(b). PO Sharma and PO Priore follow Sgt. Martin into the apartment.

No body-worn camera footage received for this case shows Sgt. Martin yanking § 87(2)(b)’s handcuffs at any point.

Sergeant Damon Martin provided the following statement at the CCRB on February 21st, 2020 [BR 06]. On February 7th, 2019, Sgt. Martin interviewed § 87(2)(b) who had walked in to the 75th Precinct stationhouse to file a complaint. § 87(2)(b) explained that she’d temporarily left her apartment at § 87(2)(b), where she’d lived for eight years, following a dispute with her mother. § 87(2)(b) claimed that she still lived at the apartment. Sgt. Martin credited § 87(2)(b)’s account, as she was able to describe the layout of the apartment. § 87(2)(b) stated that she returned to § 87(2)(b) on February 5th, 2019, and that § 87(2)(b) and § 87(2)(b) assaulted her. Further, § 87(2)(b) alleged that § 87(2)(b) possessed a firearm and a taser inside of the apartment, and that § 87(2)(b) sold marijuana inside of the apartment.

Sgt. Martin requested that a UF-61 be created for § 87(2)(b). Sgt. Martin then responded to § 87(2)(b) with § 87(2)(b) as well as with PO Sharma and his partner. Sgt. Martin intended to arrest § 87(2)(b) and § 87(2)(b) for § 87(2)(b) investigate the firearm allegedly in § 87(2)(b)’s possession, and help obtain food and clothes for § 87(2)(b)’s daughter. Sgt. Martin sent PO Sharma and his partner upstairs, to speak with § 87(2)(b). As far as Sgt. Martin was concerned, § 87(2)(b) was under arrest or “good to be arrested” as soon as PO Sharma and his partner made contact with her.

About ten minutes later, Sgt. Martin went upstairs himself, and explained to § 87(2)(b) that § 87(2)(b) wanted to regain access to the apartment. § 87(2)(b) explicitly denied Sgt. Martin consent to enter her apartment. Although Sgt. Martin had determined that § 87(2)(b) was under arrest at this point, Sgt. Martin did not handcuff or arrest § 87(2)(b) outside of her apartment, because he believed doing so would defeat his objective of entering the apartment and obtaining § 87(2)(b)'s belongings.

Sgt. Martin warned § 87(2)(b) that she could be arrested for assault, telling § 87(2)(b) “I’m gonna have to arrest you.” PO Sharma and his partner had already explained to § 87(2)(b) the accusations that § 87(2)(b) § 87(2)(b) § 87(2)(b) had made against her, and § 87(2)(b) understood why she would be placed under arrest. At some point, § 87(2)(b) said that she would not “take any more of this,” and turned to enter her apartment. She did not say why she was going back in the house, nor did she give any indication that she would come back outside of the apartment.

§ 87(2)(b) entered her apartment, and took one step past the threshold inside, and did not indicate that officers could follow her inside. However, Sgt. Martin needed to effect an arrest, and believed that he was allowed to enter, without consent, under the “hot pursuit” doctrine. Sgt. Martin followed § 87(2)(b) into her apartment, about a foot past the threshold, and tried to handcuff § 87(2)(b). Sgt. Martin then observed § 87(2)(b) standing by the door, and ordered officers to handcuff him.

As officers were handcuffing § 87(2)(b) § 87(2)(b) walked toward the back bedroom in her apartment. At least one officer followed § 87(2)(b) to her bedroom, where the officer handcuffed § 87(2)(b). Shortly thereafter, Sgt. Martin walked to § 87(2)(b)'s bedroom. Sgt. Martin does not recall whether he spoke to § 87(2)(b) in the back bedroom, and denied jerking § 87(2)(b)'s handcuffs upward, or making any other physical contact with § 87(2)(b).

In *Payton v. New York* (1979), the Supreme Court held that, absent exigent circumstances, police are prohibited from making a warrantless and nonconsensual entry into a suspect’s home to make an arrest, notwithstanding probable cause to make an arrest. *Payton v. New York*, 445 U.S. 573 [BR 09].

In *United States v. Santana* (1976), the Supreme Court held that a suspect may not defeat a lawful arrest by retreating into a private place, including a home. As such, officers may enter a home without a warrant to effect an arrest when they are engaged in a “true hot pursuit” of the suspect, that began in a public place. *United States v. Santana*, 427 U.S. 38 [BR 10].

§ 87(2)(g)

§ 87(2)(g)

[illegible]

§ 87(2)(g)

§ 87(2)(g)

regarding § 87(2)(b)

§ 87(2)(b) stated that on § 87(2)(b), while still in police custody, she went to § 87(2)(b) to obtain treatment for wrist pain and high blood pressure. When § 87(2)(b) returned to the 75th Precinct stationhouse, an officer whose name tag read “Stephenson” allegedly viewed medical records resulting from § 87(2)(b)s hospital visit, and stated “your blood pressure must have not been up; they didn’t give you any blood pressure medication.” In a telephone statement on February

13th, 2019, § 87(2)(b) clarified that PO Stephenson was one of the officers that escorted her to the hospital on § 87(2)(b) [BR 11]

§ 87(2)(b) described PO Stephenson as a bald and overweight black male, in his mid-to-late thirties, standing at around 5’8”.

The Medical Treatment of Prisoner (MTPR) form associated with § 87(2)(b) s arrest [BR 12] indicates that § 87(2)(b) complained of high blood pressure, and was transported to § 87(2)(b) (date not provided), where she was prescribed an unspecified medication. The MTPR lists PO Manny Sharma as the escorting officer.

Police Officer Louis Stephenson of the 75th Precinct was interviewed at the CCRB on March 5th, 2020 [BR 13].

Police Officer Stephenson is a white Hispanic male, hirsute with black/gray hair, standing 5’11” and weighing 225 pounds.

Police Officer Stephenson stated that on February 8th, 2019, he was the assistant desk officer at the 75th Precinct, in which capacity he was responsible for operating the telephone and ensuring the quality of paperwork. He suffered an injury in the line of duty on § 87(2)(b), since which date PO Stephenson has not escorted any prisoners to the hospital. PO Stephenson stated that he does not, under any circumstances, review paperwork resulting from prisoners’ hospital visits. PO Stephenson denied viewing or discussing medical records resulting from § 87(2)(b) s visit to § 87(2)(b), and had no recollection of the incident.

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b) has been a party to two prior CCRB complaints and has been named as the victim in three allegations [BR 14].

- § 87(2)(b)

- Sgt. Damon Martin has been a member of service for 22 years and has been named as a subject in 25 complaints and 63 allegations, 8 of which have been substantiated.
 - Case # 200613930 involved allegations of search of home and search of person, both of which were substantiated; Sgt. Martin was found not guilty at trial.
 - Case # 200616696 involved an allegation of question/stop, which was substantiated; no penalty was imposed.
 - Case # 200814508 involved allegations of a stop, strip-search, retaliatory arrest, and threat of force, all of which were substantiated; the NYPD imposed a penalty of 15 lost vacation days.
 - Case # 201804938 was substantiated; no record of disciplinary action is available.

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
- [§ 87(2)(b)] [REDACTED] filed a Notice of Claim with the City of New York claiming lost and damaged property, lost work hours, invasion of privacy, mental anguish, HIPPA violation, false arrest, and abuse of power and seeking 201,053,707 dollars in redress. A 50H hearing was held on [REDACTED] [§ 87(2)] [REDACTED] [BR # 15].

Squad No.: _____7_____

Investigator: _____	Inv William Rasenberger	
Signature	Print Title & Name	Date

Squad Leader: _____	Manger Vanessa Rosen	
Signature	Print Title & Name	Date

Reviewer: _____

Signature

Print Title & Name

Date